

SMALL BUSINESS ADMINISTRATION (SBA)
STANDARD OPERATING PROCEDURES (SOP)
SBA ADVISORY COMMITTEES

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Chapter 1

General Information

1. What are advisory committees?

a. Generally

Advisory committees are groups created by statute, the President or agency heads to provide advice and recommendations to relevant Government agencies. However, statutes or presidential directives can create exceptions to the general rule of providing only advice and recommendations.

In SBA's case, there are five primary sources of authority that are relevant to SBA's advisory committees. These are: the Federal Advisory Committee Act (FACA), the General Services Administration regulations implementing FACA, the Small Business Act, this SOP, and the advisory committees' charters. In determining the appropriate scope and duties of a particular SBA advisory committee, SBA officials should be guided first by the purposes and duties specified in the relevant advisory committee charter. Advisory committees may not act in ways inconsistent with their charters.

Advisory committees take two forms. Advisory committees created by statute or the President are called non-discretionary advisory committees. Advisory committees created at the discretion of an agency head are called discretionary advisory committees. SBA's non-discretionary advisory committees are the National Small Business Development Center Advisory Board, the Advisory Committee on Veterans Business Affairs, and the Regional Small Business Fairness Boards. SBA's discretionary committees are the National Advisory Council and the District Advisory Councils.

b. Executive Order 12383 (Termination and Limitation of Federal Advisory Committees)

Executive Order 12383 (effective February 10, 1993) required each agency to reduce its number of discretionary advisory committees. The Executive Order authorized the Office of Management and Budget (OMB), through the General Services Administration (GSA), to establish a ceiling on the number of discretionary committees each agency may create. GSA set a ceiling of 34 discretionary advisory committees for SBA. We may not exceed this ceiling unless we get permission from GSA's Committee Management Secretariat (Secretariat) (See chapter 2, paragraph 3.c. for more details on getting GSA permission), or from OMB if we ask for a review of a negative GSA determination.

c. Basic requirements

Each advisory committee:

- (1) Must have an organized structure;
- (2) Must have a fixed membership;
- (3) Must address specific issues or policies (e.g., small business issues, small business issues of interest to veterans); and
- (4) Automatically terminates 2 years after establishment unless statute or Executive Order provides otherwise or SBA renews the committee before the end of the 2 year period (See chapter 2, paragraph 4 for more details about renewing a committee).

d. Groups not included

The definition of advisory committees does not include groups such as those listed below (See 41 CFR §101-6.1004 for a complete list). Thus, this SOP for advisory committees does not govern the following groups:

- (1) Interagency Committees that present ideas to, rather than advise, more than one agency (e.g., Interagency Committee on Women's Business Enterprise);
- (2) Committees composed completely of full-time officers or employees of the Federal Government;

- (3) Subcommittees, or two or more advisory committee or subcommittee members working together to gather information, conduct research, analyze issues or facts, or draft proposals for submission to an SBA chartered advisory committee. However, if the subcommittees or members give the information, in the form of a consensus point of view or recommendation, directly to SBA rather than to their parent committees, the meeting would be subject to this SOP, and the laws and regulations governing advisory committees; and
- (4) One or more individuals, regardless of whether these individuals sit on an SBA affiliated advisory committee, meeting with Government employees to offer individual viewpoints on issues.

2. What are SBA's advisory committees and what is each one's purpose generally?

Generally, an advisory committee serves as a source of advice and recommendations for agencies and Government officials specifically designated by statute. However, the specific purpose and duties of each advisory committee are identified in each committee's charter that is filed with Congress. The following is a general statement of purpose for each of SBA's advisory committees. For more specific details on the purpose and duties of each, reference the committee's respective charter by contacting SBA's Committee Management Officer (CMO) and see Chapter 6 of this SOP.

- a. Small Business Administration National Advisory Council (NAC) - This Council provides expert advice, ideas and opinions on SBA programs and small business issues. Its members provide an essential connection between SBA, SBA program participants, and the small business community nationwide. This Council is authorized by § 8(b)(13) of the Small Business Act and was created at the discretion of the Administrator.
- b. Small Business Administration District Advisory Councils (DACs) - These Councils advise SBA on the effectiveness and need for current and proposed programs and serve as links to local business, commercial and economic development information. These Councils are authorized by § 8(b)(13) of the Small Business Act and were created at the discretion of the Administrator.
- c. National Small Business Development Center Advisory Board - This organization advises, counsels and confers with the Associate Administrator for the Office of Small Business Development Centers (SBDCs) evaluating the aims, objectives and goals of the SBDC program. This Board introduces proposals for strengthening the SBDC program and interacts with state SBDC

Advisory Boards. This Board is a non-discretionary advisory committee that Congress directed to exist under § 21(i)(1) of the Small Business Act.

- d. Advisory Committee on Veterans Business Affairs - This organization reviews, coordinates, and monitors plans and programs that affect the ability of small business concerns owned and controlled by veterans to obtain capital, credit and access to markets. This Committee is a non-discretionary advisory committee that Congress directed to exist under Public Law 106-50. Public Law 106-50 states that this Committee shall terminate on September 30, 2004.
- e. Regional Small Business Fairness Boards - These Boards advise the National Ombudsman on matters of concern to small businesses relating to the regulatory enforcement and compliance activities of Federal agencies. These Boards also serve to advise the National Ombudsman on substantiated instances of excessive enforcement actions by agencies against small businesses. These Boards are non-discretionary advisory committees that Congress directed to exist under § 30(c) of the Small Business Act.
- f. National Women's Business Council - This Council is an advisory committee subject to the Federal Advisory Committee Act (FACA) and associated regulations. However, unlike the groups identified in 2.a. - e. above, this organization is not an advisory committee set up exclusively for SBA; thus, it is only subject to this SOP to the extent it adopts the SOP's provisions. This organization serves as an independent source of advice and counsel reporting to SBA, the Interagency Committee on Women's Business Enterprise, Congress, and the President. This Council provides advice on initiatives, policies and programs that encourage women's business ventures. This Council is a non-discretionary advisory committee that Congress directed to exist under Public Law 100-533.

3. What laws, regulations, and policies govern SBA advisory committees?

The following govern advisory committees and their procedures:

- a. The Federal Advisory Committee Act (FACA), 5 U.S.C. app. 2, effective January 5, 1973,
- b. FACA Amendments of 1997, Public Law 105-153, effective December 17, 1997,
- c. 41 C.F.R. §§ 101-6.1002-6.1035 (Federal Advisory Committee Management Regulations),

- d. The Small Business Act
 § 8 (Establishment of Advisory Committees);
 §§ 20 - 21 (Small Business Development Center Advisory Committees);
 § 29 (Women's Business Center Program);
 § 30 (Oversight of Regulatory Enforcement),
- e. Veterans Entrepreneurship and Small Business Development Act of 1999,
 Public Law 106-50, effective August 17, 1999,
- f. 13 C.F.R. § 105.320 (Assistance for Employees or Members of Quasi-Government Organizations);
 13 C.F.R. §§ 130.360 and 130.410 (Small Business Development Centers),
- g. Executive Order 12838, effective February 10, 1993, (Termination and Limitation of Federal Advisory Committees),
- h. Vice Presidential Memorandum, dated June 28, 1994, (Further explains the President's policy on controlling the number of Federal advisory committees),
- i. Office of Management and Budget Circular A-135, dated October 5, 1994, (Provides guidance on the management of Federal advisory committees),
- j. Unfunded Mandates Reform Act, Public Law 104-4, effective March 22, 1995, (Excludes from FACA dealings between Federal officials and their state, local or tribal counterparts while acting in their official capacities),
- k. The Freedom of Information Act, 5 U.S.C. 552 (Applies to the extent that SBA employees retain documents concerning advisory committees),
- l. The Privacy Act, 5 U.S.C. 552a,
- m. The Government in the Sunshine Act, 5 U.S.C. 552b,
- n. Specific Advisory Committee Operating Procedures as adopted by each committee (See Appendix 1 for a sample),
- o. This SOP and any applicable amendments or other written internal policy directives. In addition to the general provisions of this SOP in chapters 1-5, chapter 6 addresses specific requirements of advisory committees.

Chapter 2

Advisory Committee Establishment, Renewal, Reestablishment, Termination and Charter Filing Requirements

1. How are advisory committees established?

In general, the Federal Government establishes advisory committees as follows:

a. Non-discretionary committees

- (1) By law where the Congress specifically directs the President or an agency to establish them, or
- (2) By Executive Order.

b. Discretionary committees

- (1) By law where the Congress authorizes but does not direct the President or an agency to establish them, or
- (2) By an agency head.

2. How does SBA establish non-discretionary advisory committees?

SBA's Committee Management Officer (CMO), oversees compliance with 41 C.F.R. § 101-6.1013 (Charter filing requirements). Specifically, the CMO must:

- a. Draft a proposed charter (See Appendix 2 for a sample) including (as required by statute):
 - (1) The committee's official designation;
 - (2) The committee's objectives and the scope of its activity;
 - (3) The time period necessary for the committee to carry out its purposes;
 - (4) The agency or official to whom the committee will report;
 - (5) The agency responsible for providing the necessary support for the committee;
 - (6) A description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a statement of the authority permitting such duties;
 - (7) The estimated annual operating cost in dollars and employee hours for such committee;
 - (8) The estimated number and frequency of committee meetings;
 - (9) The committee's termination date, if less than 2 years from the date of establishment; and
 - (10) The date SBA filed the charter with the Administrator and with the Senate and House Small Business Committees or, in the case of a presidential advisory committee, with the Administrator of General Services.
- b. All Statutory and Presidential Authority committees do not require consultation with Committee Management Secretariat (CMS).
- c. File:
 - (1) **The charter** with the Senate and the House of Representatives Committees on Small Business,
 - (2) **A copy** of the charter with the Library of Congress, Exchange and Gift Division, Federal Documents Section, Federal Advisory Committee Desk, Washington, DC 20540, and

- (3) **A copy** of the charter with the GSA Secretariat indicating the congressional filing date.

If statute or the President directs a committee to exist for more than 2 years, the CMO must file a new charter every 2 years after the date of the law establishing it.

3. How does SBA establish discretionary advisory committees?

When establishing a discretionary advisory committee, the CMO must ensure that SBA follows 41 C.F.R. § 101.6-1007 (Agency procedures for establishing advisory committees) along with the process stated below. The Administrator has the authority to amend the process set forth below as long as he or she follows the requirements of 41 C.F.R. §§ 101-6.1002 - 6.1035.

The process for establishing a discretionary advisory committee is as follows:

a. Proposal

To establish a discretionary advisory committee, an SBA official (e.g., Program Manager, District Director) must give the CMO a written proposal. This proposal must contain:

- (1) Information relative to establishing the committee including -
 - i. Why the proposed committee is “essential” to the conduct of SBA’s business,
 - ii. How the proposed committee’s recommendations would provide an important perspective, result in improvements to services, or generate cost reductions, and
 - iii. Whether another committee or source within the Federal Government could address the subject area set aside for the proposed advisory committee.
- (2) The suggested size of the committee -
- (3) A recommendation for who should serve as the committee’s Designated Federal Officer (DFO) (See chapter 5, paragraph 3 for more details about the role of the DFO) -
- (4) A proposed charter including the information listed in chapter 2, paragraph 2. above - and
- (5) A letter addressed to the GSA’s Secretariat. The letter must include -
 - i. An explanation of why the committee is “essential” to SBA and in the public’s interest,
 - ii. An explanation of why SBA, an existing SBA advisory committee, or other source cannot perform the committee’s functions, and
 - iii. A description of SBA’s plan to attain a fairly balanced membership.

b. Proposal review

The CMO, the Chief Financial Officer (CFO), the Office of General Counsel (OGC), and the Office of Field Operations (OFO) (if the proposal came from a field unit) will review and comment on the proposal. When reviewing the proposal, these SBA officials must pay specific attention to whether the proposal addresses the statements in chapter 2, paragraph 3.a.(1) above.

Depending on the comments received from the reviewing parties, the CMO has the authority to amend the proposal before giving it to the Administrator for review. However, the CMO should discuss any significant amendments with the SBA official who initiated the proposal (proposing official) before giving the amended proposal to the Administrator.

c. GSA permission to exceed SBA's ceiling of 34 discretionary advisory committees (if necessary)

If we have exceeded or will exceed our initial ceiling of 34 discretionary advisory committees the CMO must call GSA's Secretariat to discuss the need for an additional discretionary advisory committee. If GSA gives permission to exceed the ceiling, the CMO should forward the proposal to the Administrator for review. If GSA denies permission, the CMO should forward the proposal and GSA's reasons for denial to the Administrator for review. At this point the Administrator may elect to seek approval to exceed the ceiling from OMB, which has the final authority.

d. Written approval by the Administrator

Once any ceiling issues are resolved, the CMO must follow the SBA Form 606 clearance process to send the proposal and all comments to the Administrator for review, and Paragraphs e. through i. below apply. The Administrator, on a non-delegable basis, must decide whether to establish the discretionary advisory committee and can advise the CMO of the decision by approving the Form 606 or by some other written means.

e. After getting approval from the Administrator

If the Administrator approves the establishment of an advisory committee, the CMO will notify the proposing official. Additionally, the CMO will draft a Federal Register notice that includes:

- (1) An announcement that SBA is establishing a new advisory committee;
- (2) A description of the nature and purpose of the committee;
- (3) SBA's plan to attain fairly balanced membership; and
- (4) A statement that the committee is necessary and in the public interest.

The CMO will give the proposed charter, the letter addressed to GSA (See chapter 2, paragraph 3.a.(5) above), and the Federal Register notice to the OGC for legal review. Once OGC reviews the material, the CMO will forward the proposed charter and accompanying letter to GSA's Secretariat for review and follow the procedures in chapter 2, paragraph h. below for the Federal Register notice.

f. GSA review

GSA's Secretariat will review SBA's proposed charter and accompanying letter and comment on the need for the proposed committee. GSA's Secretariat will try to notify SBA's CMO of its opinion within 15 days of receiving the information. Even if GSA does not support the establishment of the committee the Administrator has the final authority to establish the advisory committee if SBA is below its ceiling of 34, or SBA has been given permission by OMB to exceed its ceiling.

g. After receiving GSA's opinion

(1) If GSA's opinion supports establishment:

The CMO must file a final version of the advisory committee charter (See chapter 2, paragraph 2.c. for charter filing requirements).

If the Administrator decides not to establish the proposed committee despite earlier approval, the CMO must notify GSA's Secretariat and the proposing official.

(2) If GSA's opinion does not support establishment:

The CMO must notify the Administrator of GSA's comments. The Administrator will make the final decision, in writing, of whether to establish the committee. If the Administrator decides to establish the committee, the CMO must file a final version of the advisory committee charter (See chapter 2, paragraph 2.c. below for charter filing requirements). If the Administrator decides not to establish the committee, the CMO must notify GSA's Secretariat and the proposing official.

h. Publish the Federal Register Notice

The CMO must submit the Federal Register notice described in chapter 2, paragraph e. above. The notice must appear in the Federal Register 15 days before the CMO files the committee's charter. GSA's Secretariat may approve a period of less than 15 days if SBA has a good reason for making this request. (See Appendix 2 for a sample notice).

i. File the charter

An advisory committee may not meet, take action, or incur expenses until the CMO files the committee's charter in its final form. The filing date of the charter is the establishment date for

the committee. The CMO must follow the charter filing requirements stated in chapter 2, paragraph 2.c..

4. How does SBA renew or reestablish an advisory committee?

a. Renewing a discretionary advisory committee

To renew an existing committee, the CMO must take the following actions at least 30 days before the committee is scheduled to terminate:

- (1) Send a proposed charter to GSA (See chapter 2, paragraph 2 for charter content requirements), and
- (2) Send a letter addressed to GSA's Secretariat that includes -
 - i. an explanation of why the committee is "essential" to SBA and in the public's interest,
 - ii. an explanation of why SBA, an existing SBA advisory committee, or other source cannot perform the committee's functions, and
 - iii. a description of SBA's plan to attain a fairly balanced membership.

GSA's Secretariat will review SBA's proposed charter and accompanying letter and comment on the need for renewing the proposed committee. GSA's Secretariat will try to notify the CMO of their opinion within 15 days of receiving the information.

If GSA's opinion supports renewal, the CMO may file the charter as stated in chapter 2, paragraph 2.c. above. If GSA's opinion does not support renewal, the CMO must notify the Administrator of GSA's comments. The Administrator will make the final decision, in writing, of whether to renew the committee. If the Administrator decides to renew the committee, the CMO must file the committee charter. If the Administrator decides not to renew the committee, the CMO must notify the committee's DFO and GSA's Secretariat.

(3) Publish the Federal Register Notice

The CMO must file a Federal Register notice announcing the committee's renewal. The CMO may submit this notice when filing the charter.

(4) File the charter

The CMO must follow the charter filing guidelines stated in chapter 2, paragraph 2.c. above.

b. Reestablishing a discretionary committee

(1) After inadvertent termination

If, in the CMO's judgment, the termination of a committee was inadvertent (i.e., we missed the deadline for filing the charter renewing an advisory committee), the CMO may reestablish the committee by:

- i. Sending GSA a proposed charter (See chapter 2, paragraph 2. for charter content requirements), and
- ii. Sending a letter addressed to the GSA's Secretariat.

The letter must include an explanation of why the committee is "essential" to the SBA and in the public's interest; an explanation of why SBA, an existing SBA advisory committee, or other means cannot perform the committee's functions; and a description of SBA's plan to attain a fairly balanced membership.

GSA's Secretariat will review SBA's proposed charter and accompanying letter to comment on the need for reestablishing the proposed committee. GSA's Secretariat will try to notify SBA's CMO of their opinion within 15 days of receiving the information.

If GSA's opinion supports reestablishment, the CMO may file the charter as stated in chapter 2, paragraph 2.c. above. If GSA's opinion does not support reestablishment the CMO must notify the Administrator of GSA's comments. The Administrator will make the final decision, in writing, of whether to reestablish the committee. If the Administrator decides to reestablish the committee, the CMO must file the committee charter. If the Administrator decides not to reestablish the committee, the CMO must notify the committee's DFO and GSA's Secretariat.

iii. Publishing a Federal Register notice

The CMO must submit a Federal Register notice announcing the committee's reestablishment. The notices must appear at least 15 calendar days before the CMO files the committee charter. The Secretariat of GSA may approve using a period of less than 15 calendar days if SBA has a good reason for making this request.

iv. Filing the charter

The CMO must follow the charter filing guidelines stated in chapter 2, paragraph 2.c. above.

(2) After intentional termination

If, in the CMO's judgment, the committee was terminated intentionally, the CMO must follow the committee establishment process in chapter 2, paragraph 3 to reestablish the committee.

c. Reestablishing a non-discretionary advisory committee

If the CMO thinks that the non-discretionary committee should continue beyond its statutory term, the CMO must make such a proposal to the Administrator. The CMO must follow the process for establishing a new discretionary committee (See chapter 2, paragraph 3).

5. How does SBA amend advisory committee charters?

a. Discretionary advisory committees created by the Administrator

The DFO of each committee may initiate an amendment to an advisory committee's charter upon determining that the existing charter no longer reflects the objectives or functions of the committee. For discretionary committees authorized by law, the DFO must make certain that the amendments are consistent with the relevant statute or Executive Order. The DFO must follow the procedures below.

- (1) Minor changes - For minor changes, such as a name change, the DFO must draft the amended charter and give it to the CMO for approval. Upon such approval, the CMO will follow the charter filing guidelines in chapter 2, paragraph 2.c..
- (2) Major changes - For major changes, such as a change in objectives, the DFO must draft the amended charter language and a letter to GSA's Secretariat. The letter must request GSA's views on the amended language, and include an explanation of the changes and why they are necessary. The DFO must give the amended charter and GSA letter to the CMO for approval. Upon such approval, the CMO must sign the letter and forward it with the charter to GSA for review and comment. After receiving and considering GSA's comment, the CMO must decide whether to file the amended charter. When filing the charter, the CMO must follow the charter filing guidelines in chapter 2, paragraph 2.c..

6. How are advisory committees terminated?

a. Automatically

An advisory committee automatically terminates 2 years after establishment, reestablishment or renewal unless:

- (1) Law provides for the committee to last for a specific period of time and the CMO files a charter, as described in chapter 2, paragraph 2.c. above, written 2 years from the date of the committee's establishment,
- (2) The President or SBA renews it at least 30 days before the end of the 2 year period. If SBA does not meet this deadline it may reestablish the committee by following the procedure in chapter 2, paragraph 4.b. above.

b. By SBA

Upon determining that SBA should terminate an advisory committee, the CMO must get approval from the Administrator before notifying GSA's Secretariat. SBA must terminate an advisory committee if:

- (1) The committee has accomplished its objectives as stated in its charter,
- (2) The committee's subject matter is obsolete, or
- (3) The cost of operating the committee is excessive in relation to the benefits accruing to the Federal Government.

In the event of such termination, the CMO must notify GSA's Secretariat of the committee's effective termination date.

c. Committees directed by statute or Executive Order

If SBA believes that it should terminate a committee, but statute or an Executive Order requires its continued existence, the CMO should work with SBA's Office of Congressional and Legislative Affairs (CLA) to terminate the committee through a change in legislation or Executive Order.

Chapter 3

Committee Membership

1. What SBA policies govern membership?

This SOP, any amendments to it, and other written internal policy directives, govern advisory committee membership. In some cases there are also statutory requirements governing membership (See Chapter 6 for the statutory membership requirements regarding specific advisory committees). In addition, to the extent not inconsistent with this SOP, the DFO of each advisory committee may develop Advisory Committee Procedures dealing with membership and committee operations if the DFO thinks such supplemental guidance is appropriate (See Appendix 1 for a sample).

2. Who is eligible to serve on an advisory committee?

Advisory committee members generally represent a cross section of industries and entities with an interest in relevant small business issues across the Nation or within a local area. There is no requirement that members be U.S. citizens or resident aliens. For example, we may select the following individuals to serve on an advisory committee: business and community leaders, business owners, officials from trade associations and members from academic institutions devoted to the promotion of small business.

The following individuals are eligible for membership unless identified as disqualified for a specific advisory committee. See chapter 6 for details.

- a. Employees of state or local government,
- b. Holders of state or local elective public office,
- c. Federal employees, other than SBA employees, if the employee's ethics official provides a statement that no conflict of interest or appearance of a conflict of interest exists.
- d. Principals of associated entities which are applicants for or recipients of SBA assistance if SBA's Standards of Conduct Counselor, or a designee, gives prior written approval that no conflict of interest or appearance of a conflict of interest exists.

(1) For these purposes, who is a "principal of an associated entity?"

A principal can be a sole proprietor, general partner, managing member, officer, director, or an individual with a 10 percent or more equity interest in the associated entity, whether profit or non-profit, that has applied for or has received SBA assistance. Also included are members of such principal's household as defined by 13 Code of Federal Regulations (CFR) § 105.201(d).

- (2) What types of SBA assistance require that the Standard of Conduct Counselor, or a designee, review a principal's nomination to serve on an advisory committee?

The Standard of Conduct Counselor, or a designee, must review the nomination if the associated entity has applied for or has received and is still performing or obligated under: a non-disaster business loan of any kind, whether direct or guaranteed; a surety bond guarantee; an SBA grant; a Small Business Investment Company (SBIC) license; New Markets Venture Capital (NMVC) approval; or an 8(a) sole source contract award. The nomination must also be reviewed if the entity, principal, or a member of the principal's household, is a party in a pending lawsuit which includes SBA as a party. Such review shall generally be completed within 15 workdays.

- (3) What types of SBA assistance to an associated entity prohibit a principal from serving on an advisory committee?

Pending applications for or recent recipients of 8(a) status, Small Disadvantaged Business (SDB) certification, HUBZone certification or a certificate of competency disqualify principals from serving on an advisory committee. "Recent" for these purposes means within 6 months of the nomination. If more than 6 months have passed since SBA approved the assistance, the Standards of Conduct Counselor, or a designee, will review the nomination on a case by case basis.

3. What general criteria does SBA use when selecting advisory committee members?

We at SBA balance committee membership by keeping in mind, at a minimum, the points of view represented by members or their respective organizations and the purposes each committee will pursue.

4. How does SBA appoint members to advisory committees?

The process for appointing members to advisory committees varies by committee. See chapter 6 for details.

5. What information must a nominee give to SBA before any appointment?

Before appointment to an advisory committee, the nominee must provide information including the following as part of completing the membership packet:

- a. Details of any SBA assistance that an entity associated with the nominee or a nominee's household member has received or is currently applying for. The details must include the date the assistance was received and the current status of any obligation associated with the assistance (See chapter 3, paragraph 2.d. for more details),
- b. Character information as follows:
 - (1) Whether the nominee is presently under indictment, on parole or probation;
 - (2) Whether the nominee has ever been charged with or arrested for any criminal offense other than a minor motor vehicle violation, including offenses which have been dismissed or discharged; and
 - (3) Whether the nominee has ever been convicted, placed on pretrial diversion, or placed on any form of probation, including adjudication withheld pending probation, for any criminal offense other than a minor motor vehicle violation.
- c. Complete information regarding past or current formal relationships between the nominee and SBA, other than receipt of SBA assistance (e.g., contractor, SBA landlord, former SBA employee, and former SBA advisory committee member).
- d. Complete information regarding past or current disputes or litigation involving the nominee and SBA,
- e. Business information concerning the following:
 - (1) Suspension or debarment from Federal procurements;
 - (2) Suspension or debarment from non-procurement Federal assistance;
 - (3) Default on a Federal loan or Federally assisted financing;
 - (4) Suspension or revocation on conducting business with SBA under 13 C.F.R. § 103 or other SBA regulations;

- (5) Suspension or revocation of a professional or business license; and
- (6) Other circumstances which could be reasonably perceived as showing a lack of business integrity, such as a formal charge or finding by SBA of a failure to perform required responsibilities in connection with SBA assistance, or violations of SBA regulations or a civil judgment involving business conduct.

6. What is the membership structure for SBA advisory committees?

Each advisory committee operates under the direction of a Chair. You can find the specific structure for each SBA advisory committee in chapter 6.

7. What are the responsibilities of advisory committee members?

a. Attendance

SBA requires each member to attend personally each advisory committee meeting unless a personal emergency prevents attendance and the member notifies the DFO of the committee. It reserves the unrestricted right to replace any member who is unable to participate fully in the committee meetings. It does not permit a substitute to represent a committee member unless the member gets prior written approval from the DFO of the committee.

b. Disclosure of information

A member must notify immediately the DFO of any change in circumstances that could result in a conflict of interest or appearance of a conflict of interest with SBA. The DFO will work with OGC or the appropriate ethics official to decide whether the changed circumstances require SBA to terminate the individual's membership on the committee.

c. Ethical guidelines

- (1) Members must not engage in conduct that calls their good character into serious doubt, or creates a conflict of interest or the appearance of a conflict of interest.
- (2) Members must make recommendations only to SBA officials and other Government officials specifically designated by statute. Member recommendations are only advisory, and SBA decides how to respond to them.

- (3) Members may at times obtain confidential information about SBA, other agencies, or confidential information about agencies' customers or resource partners because of their membership on an advisory committee. Members must not disclose such information unless they request and receive permission to do so. Members must request permission through the CMO's office. The CMO's office will consult with the appropriate SBA official responsible for granting or denying permission.
- (4) Members may not use their title and status as a SBA advisory committee member to endorse the products or services of outside entities.
- (5) Members must not participate in, or make use of advisory committee activities that directly affect their business or financial interests, unless the activities are available to the general public.
- (6) Members must not use their title and status as a SBA advisory committee member to apply for or get benefits that are not available to the general public.
- (7) Members must not use their title and status as a SBA advisory committee member to attempt to influence government officials at the Federal, state or local level.
- (8) Members may not receive SBA assistance, other than Disaster Loans, without the prior written approval of the Standards of Conduct Counselor, or a designee. For these purposes, SBA assistance does not include an 8(a) competitive contract. The Standards of Conduct Counselor, or a designee, will only give such approval when there is no conflict of interest or no significant appearance of a conflict of interest (See chapter 3, paragraph 2.d. for more details).
- (9) With limited exceptions, members may not advocate for or represent small businesses, state or local development companies, small business investment companies, or others, in making an application for SBA assistance. Exceptions to this policy include:
 - i. An officer, director, or employee of a financial institution that participates in an SBA loan program;
 - ii. An attorney, accountant, appraiser, engineer, or similar professional, if the person does not regularly provide service to, or derive large income from, providing a service to SBA; or
 - iii. An employee of an institution of higher education that participates in SBA's business development programs.

8. How long do members serve on advisory committees?

Membership terms vary by committee (See chapter 6 for more details).

9. When and how does SBA terminate a person's membership on an advisory committee?

SBA has an unrestricted right to terminate membership before the end of a stated term. For example, a violation of the ethical guidelines in this SOP may result in termination at the sole discretion of SBA. Another reason for termination may be non-attendance at committee meetings. The CMO sends out the letters concerning membership termination.

10. How does SBA compensate and reimburse committee members for expenses?

a. Compensation

Members of SBA advisory committees serve without compensation.

b. Expenses

When members serve on advisory committees away from home or their regular place of business, SBA will reimburse them for travel expenses, including per diem instead of room and board, to the extent authorized by 5 U.S.C.A. § 5703 (persons employed intermittently in the Government service) and SOP 20 11 4 (Travel). SBA allows advisory committee members to fly coach class only and each member normally must travel from, and return to, the member's place of residence.

11. What services does SBA provide for disabled members?

SBA will provide a personal assistant for a committee member who is blind, deaf or qualifies as disabled. The assistant will work with the disabled committee member in performing committee duties. To qualify for such assistance, the committee member must:

- a. Qualify as disabled under section 501 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and
- b. Not qualify for assistance as an agency employee under 5 U.S.C. § 3102.

12. Can advisory committee members accept gratuitous services?

An advisory committee member may accept gratuitous educational or training services on behalf of an advisory committee if:

- a. The person offering the services agrees, in advance, to provide the services without compensation; and
- b. The CMO concludes that the services being offered are beneficial to the advisory committee.

Chapter 4

Committee Operations

1. How often do advisory committees meet?

Typically, advisory committees meet twice a year. These meetings may be “open meetings” where the public may attend and participate, or they may be “closed meetings” where we restrict attendance to advisory committee members and SBA officials.

You may find specific meeting information for SBA’s advisory committees in chapter 6.

2. What affect do advisory committee recommendations have on SBA?

Committee recommendations are purely advisory and committee members must make them directly to SBA officials or to other Government officials specifically designated by statute. SBA officials will determine what action to take in response to committee recommendations.

3. How may members of the public participate in open advisory committee meetings?

Any member of the public may file a written statement with an advisory committee and may speak at an open meeting if SBA guidelines permit. When holding open meetings, advisory committees must select times and places reasonably accessible to the public. The meeting rooms must be sufficient to accommodate the committee members, committee or agency staff, members of the public and must be accessible to the handicapped.

4. How do advisory committees close their meetings to the public?

To close all or part of a meeting to the public:

- a. The DFO of an advisory committee must give a written request to the CMO at least 30 days before the meeting. This request must cite the specific provisions of the Government in the Sunshine Act, 5 U.S.C. 552b, which justify closure;
- b. The CMO will forward the request to the OGC for legal review and to the Administrator for a written determination;
- c. The Administrator will issue a determination stating whether to close all or part of the meeting, and citing the specific exemptions of the Government in the Sunshine Act, 5 U.S.C. 552b, as they will appear in the Federal Register meeting notice;
- d. The CMO must file the Federal Register closed meeting notice at least 15 calendar days before the meeting (See chapter 4, paragraph 6.b. below for more details); and
- e. The CMO must keep a copy of the determination and make it available to the public upon request.

5. What are the requirements for keeping minutes of advisory committee meetings?

Advisory committees must keep detailed minutes and the Chair of each advisory committee must certify to the accuracy of the minutes (See Appendix 4 for a sample). The minutes must include:

- a. The time, date, and place of the meeting,
- b. A list of advisory committee members and SBA employees present,
- c. A list of members of the public who presented oral or written statements,
- d. An estimated number of other members of the public present,
- e. An accurate description of each matter the committee discussed and any resolutions the committee made, and
- f. Copies of each report or other document the committee received, issued, or approved.

6. What are the reporting requirements for advisory committees?

- a. GSA reporting requirements

The CMO must ensure that SBA completes all reports in compliance with the instructions that GSA's Secretariat provides annually. You can find annual instructions and automated forms on GSA's FACA Website at <http://policyworks.gov/org/main/mc/linkit.htm>. The SBA reports must include information that will allow GSA's Secretariat to complete a thorough annual review of each advisory committee as required by section 7(b) of FACA (Responsibilities of the Administrator of General Services).

b. Closed meeting reports

Under section 10(d) of FACA (Advisory committee procedures), advisory committees holding closed meetings must issue reports at least annually to GSA, summarizing their activities as required by 5 U.S.C. 552b (Public information; agency rules, opinions, orders, records, proceedings). The DFO of each committee must draft an annual report for the committee and send it to the CMO. The CMO will compile the individual committee reports into a single annual report for GSA following GSA's annual instructions.

c. Filing reports with the Library of Congress

Under 5 U.S.C. 552, and FACA § 13 (Responsibilities of Library of Congress), the CMO must file eight copies of each report, including closed meeting reports and background papers prepared by consultants with the Library of Congress. The location for filing is the Library of Congress, Exchange and Gift Division, Federal Documents Section, Federal Advisory Committee Desk, Washington, DC 20540.

7. What advisory committee information must SBA publish in the Federal Register?

a. Notice of the establishment, reestablishment or renewal of a discretionary advisory committee

The CMO must draft a notice for the Federal Register whenever SBA establishes, reestablishes, or renews a discretionary advisory committee (See chapter 2, paragraphs 3 and 4 for more details).

b. Notice of open or closed advisory committee meetings

The DFO of each advisory committee must draft a Federal Register notice announcing advisory committee meetings. The DFO must send the notice to the CMO in time to have it published in the Federal Register at least 15 days before an advisory committee meeting (See Appendix 5 for a sample). In exceptional circumstances, we may give less than 15 days notice if we include the reasons for doing so in the meeting notice published in the Federal Register.

This notice must include:

- (1) The exact name of the advisory committee as it appears in the committee's charter;
- (2) The date, time, place, and purpose of the meeting;
- (3) A summary of the agenda; and
- (4) A statement of whether all or part of the meeting is open or closed to the public. If closed, the notice must state the reasons why, citing as the reasons for closure specific exemptions from the Government in the Sunshine Act, 5 U.S.C. 552b.

Chapter 5

Role of SBA Employees

1. What is the role of SBA's Administrator?

The Administrator, or a designee, must approve the selection of all SBA advisory committee members. In addition, the Administrator, or a designee, must ensure that SBA:

- a. Complies with the Federal Advisory Committee Act (FACA),
- b. Establishes uniform administrative guidelines and management controls for all committees,
- c. Maintains information on the nature, function, and operation of each advisory committee,
- d. Designates a Committee Management Officer (CMO) to carry out the functions in FACA § 8(b) (Responsibilities of Committee Management Officer),
- e. Appoints a Designated Federal Officer (DFO) for each advisory committee and subcommittee,
- f. Completes an annual review addressing the need to continue existing advisory committees in light of the public interest, purpose and function of each committee,
- g. Limits the number of committee members to the fewest necessary to complete the committee objectives,
- h. Completes a review addressing the interests and affiliations of advisory committee members,
- i. Ensures that agency support for each committee is adequate,
- j. Ensures that the public has a reasonable opportunity to participate in advisory committee activities,

- k. Completes written determinations stating reasons for closing any advisory committee meetings to the public, and
- l. Unless otherwise specified by the President, gives a report to Congress telling the status of public recommendations made to a Presidential advisory committee supported by the Agency.

2. What is the role of the Committee Management Officer (CMO)?

The CMO is responsible for:

- a. Carrying out all responsibilities that the Administrator delegates,
- b. Appointing one or more Assistant Committee Management Officers to help in completing administrative responsibilities,
- c. Implementing the provisions of section 8(b) of FACA (Responsibilities of Advisory Committee Management Officer),
- d. Ensuring accurate records by making sure that SBA complies with FACA sections 10(b)(Advisory committee procedures), 12(a) (Fiscal and administrative provisions), and 13(Responsibilities of Library of Congress),
- e. Working with records management personnel to ensure that we follow the General Records Schedule for agencies as required by the National Archives and Records Administration,
- f. Filing committee charters, forwarding Federal Register notices through Administrative Services and filing other relevant paperwork received from DFOs,
- g. Maintaining copies of paperwork associated with advisory committee establishment, renewal, reestablishment, membership, and operations, and
- h. Complying with the Privacy Act of 1974, 5 U.S.C. 552(a) by maintaining records regarding past, present, and proposed members of SBA advisory committees. The CMO may use these records to:
 - (1) Respond to requests from members of Congress regarding advisory committee members;
 - (2) Disclose information about advisory committee members to the general public; or

- (3) Respond to a request for information from the General Services Administration.

3. What is the role of the Designated Federal Officer (DFO)?

SBA must designate a Federal Officer or employee, who may be full-time or permanent part-time, to be the DFO for each advisory committee and subcommittee. This individual, or his or her designee, must:

- a. Draft the committee charter and associated paperwork (See chapter 2, paragraph 2),
- b. Draft Federal Register notices (See chapter 4, paragraph 7);
- c. Send required paperwork through the CMO in time to meet stated deadlines,
- d. Draft and/or revise Advisory Committee Operating Procedures and ensure that the CMO has a copy of the most current version,
- e. Conduct an orientation for new members on the purpose of the committee, operating procedures and the role of members,
- f. Keep committee members informed on SBA programs and procedures,
- g. Keep records on membership, including expiration of terms, and notify the CMO of any changes in membership including address changes,
- h. Process travel authorizations and expense vouchers,
- i. Approve or call the meeting of the advisory committee,
- j. Approve the agenda for each meeting (this requirement does not apply to Presidential advisory committees),
- k. Ensure that members have copies of the written materials they will use at the meeting,
- l. Chair the meeting when SBA's CMO directs,
- m. Adjourn the meetings when adjournment is in the public interest,

- n. Draft and send a copy of meeting reports to the CMO and to each committee member within 30 days after a meeting.

Chapter 6

Specific Requirements of SBA Affiliated Advisory Committees

1. Small Business Administration National Advisory Council (NAC)

a. Policies governing membership

- (1) Eligibility - This Council is a group composed of senior business leaders representing a cross section of industries throughout the Nation. The majority of members are business and community owners, officials from small business oriented associations, academic institutions and Government agencies devoted to the promotion of small business.
- (2) Appointments - The Administrator appoints all members including the Chair and Vice Chair. The process for appointing members to NAC is as follows:
 - i) Any individual or organization interested in small business may send membership nominations to the CMO's office,
 - ii) The CMO's office forwards the nominations to the Administrator, or a designee, who reviews them and tentatively selects the nominees for membership,
 - iii) The CMO notifies each nominee of the nomination and tentative selection and sends each a committee membership packet,
 - iv) Nominees read the membership packet, agree to its terms, and complete the necessary paperwork (Details in chapter 3, paragraph 5),
 - v) Nominees return the paperwork to the CMO. The CMO reviews the nominee's paperwork to see if any of the circumstances triggering a conflict of interest, or the appearance of a conflict of interest exists (See chapter 3, paragraph 2.c. and d.). If such circumstances exist, the CMO must seek legal review from the Office of General Counsel (OGC),

- vi) The CMO drafts a recommendation for the Administrator based upon the information provided by the nominee and the opinion of counsel,
- vii) If membership is approved by the Administrator, or a designee, the CMO finalizes the nominee's appointment by sending the nominee a certificate signed by the Administrator and a letter stating that the nominee will serve as a "representative" on the SBA advisory committee (See Appendix 3 for a sample);
- viii) If the membership review is unfavorable, the CMO will notify the nominee.

(3) Terms of appointment - Members, including the Chair and Vice Chair, serve for a two-year term unless SBA terminates membership sooner. Members can not serve for more than three consecutive terms.

(4) Vacancies - If the Administrator desires to fill a vacancy the procedures above will be followed as soon as practicable.

(5) Council membership structure - This Council reports to the Administrator through the CMO. SBA currently structures the Council as follows:

- i) Chair,
- ii) Vice Chair,
- iii) Ten Regional Representatives,
- iv) Fifty-two State Representatives (1 from each state, 1 from Puerto Rico or the Virgin Islands, and 1 from the District of Columbia),
- v) Fifty members appointed based on state populations,
- vi) Twenty-five members appointed from the business sector and trade associations, and
- vii) Five appointments at large.

b. Meetings

- (1) The Council holds meetings two times a year;
- (2) The SBA Administrator calls the meeting and sets the date, place, and agenda after consulting with the Chair;
- (3) The CMO makes the meeting arrangements, attends the meetings, and has the authority to adjourn the meetings;

c. DFO

The CMO serves as the DFO of this Committee and is responsible for:

- (1) Notifying Regional Administrators (RA) and District Directors (DD) of advisory committee nominations and appointments within their geographic areas;
- (2) Ensuring that all recommendations and/or resolutions adopted by the Council are presented to the Administrator;
- (3) Ensuring that any written response to Council recommendations is given to Council members, SBA Management Board, RAs and appropriate SBA staff; and
- (4) Arranging for SBA employees to attend NAC meetings when directed by the Administrator.

2. Small Business Administration District Advisory Councils (DAC)

a. Policies governing membership

- (1) Eligibility - SBA selects members predominately from the private sector, including people from such industries as retail, manufacturing, and financial services. Members also include representatives from academia, the media, and appropriate Federal, state and local agencies.
- (2) Appointments – The Administrator appoints all members following the process set forth below. Council members select the Chair for their Council with the approval of their District Director (DD),
 - i) Any individual or organization interested in small business may send membership nominations to the relevant DD,
 - ii) The DD reviews the nominations and, with the concurrence of their Regional Administrator (RA), tentatively selects the nominees for membership. When practicable, such selection will be completed within 30 days of the nomination,
 - iii) The DD notifies each nominee of the nomination and tentative selection and sends each nominee a committee membership packet,
 - iv) Nominees read the membership packet, agree to its terms, and complete the necessary paperwork (Details in chapter 3, paragraph 5),

- v) Nominees return the paperwork to the DD. The DD reviews the nominee's paperwork to see if any of the circumstances triggering a conflict of interest, or the appearance of a conflict of interest exists (See chapter 3, paragraph 2.c. and d.). If such circumstances exist the DD must seek legal review from the District Counsel,
- vi) The DD forwards the tentative selection for membership to the CMO in writing based upon the information provided by the nominee and the opinion of counsel,
- vii) If the selection is confirmed by the Administrator, or a designee, the CMO finalizes the nominee's appointment by sending the nominee a certificate signed by the Administrator and a letter stating that the nominee will serve as a "representative" on the SBA advisory committee (See Appendix 3 for a sample);
- viii) If the selection is not confirmed, the CMO will notify the DD who will notify the nominee.

- (3) Terms of appointment - Members, including the Chairs, serve for 2 years unless terminated sooner. DDs may approve membership renewal for the period of one additional 2 year term as long as the particular member meets all of the requirements necessary for their initial appointment. The Administrator or designee must approve any subsequent renewals.
- (4) Vacancies - Vacancies must be filled as soon as practicable following the procedures above unless the DD elects not to fill the vacancy provided the required minimum membership is maintained.
- (5) Council membership structure - The required minimum membership for a district advisory council is nine members, including the Chair. These Councils report to the Administrator through their respective DDs and RAs. DDs divide the Councils into sub-committees as necessary to carry out each Council's mission.

b. Meetings

- (1) The Councils hold meetings at least twice a year;
- (2) The DDs call the meetings and set the date, place, and agenda after consulting with the Chairs;
- (3) The DDs make the meeting arrangements, attend the meetings and have the authority to adjourn the meetings.

c. DFO

The District Directors serve as the DFOs. Specific responsibilities include:

- (1) Reviewing committee recommendations and resolutions with the Regional Administrator for their district;
- (2) Scheduling the periodic attendance of the relevant Regional Administrator at committee meetings;
- (3) Publicizing appointment of Council members and announcing Council meetings and activities to the media;
- (4) Sending news clips and publicity information to the CMO;
- (5) Coordinating Council participation in Small Business Week activities as directed by the Administrator.

3. National Small Business Development Center Advisory Board

a. Policies governing membership

- (1) Eligibility - SBA selects members from civilian life who are familiar with and sympathetic to the needs and problems of small businesses. Federal employees are not eligible to sit on the Board.
- (2) Appointments - The SBA Administrator appoints the members and the Board members elect the Chair.
 - i) Any individual or organization interested in small business may send membership nominations to the DFO,
 - ii) The DFO reviews the nominations and tentatively selects the nominees for membership. When practicable, such selection will be completed within 30 days of the nomination,
 - iii) The DFO notifies each nominee of the nomination and tentative selection and sends each nominee a committee membership packet,
 - iv) Nominees read the membership packet, agree to its terms, and complete the necessary paperwork (Details in chapter 3, paragraph 5),

- v) Nominees return the paperwork to the DFO. The DFO reviews the nominee's paperwork to see if any of the circumstances triggering a conflict of interest, or the appearance of a conflict of interest exists (See chapter 3, paragraph 2.c. and d.). If such circumstances exist the DFO must seek legal review from the Office of General Counsel,
- vi) The DFO forwards the tentative selection for membership to the CMO in writing based upon the information provided by the nominee and the opinion of counsel,
- vii) If the selection is confirmed by the Administrator, or a designee, the CMO finalizes the nominee's appointment by sending the nominee a certificate signed by the Administrator and a letter stating that the nominee will serve as a "representative" on the SBA advisory committee (See Appendix 3 for a sample);
- viii) If the selection is not confirmed, the CMO will notify the DFO who will notify the nominee.

- (3) Terms of appointment - Members serve for 3 years with one third of the Board membership changing each year.
- (4) Vacancies - The Administrator may appoint successors to fill unexpired terms.
- (5) Board membership structure - This Board reports to the Administrator through the Associate Administrator for Small Business Development Centers. The Board is structured as follows:
 - i) Nine total Board members including one Chair,
 - ii) No more than three members from universities or their affiliates, and
 - iii) At least six members from business or associations representing small businesses.

b. Meetings

- (1) The Board holds meetings at least twice a year;
- (2) The Chair calls the meetings and sets the date, place, and agenda;
- (3) The DFO makes the meeting arrangements, attends the meetings and has the authority to adjourn the meetings.

c. DFO

The Associate Administrator and the Program Manager for the Office of Small Business Development Centers each serve as the DFO.

4. **Advisory Committee on Veterans Business Affairs**

a. Policies governing membership

- (1) Eligibility - SBA selects members from veterans' organizations. However, no member of the Committee may serve as an officer or employee of the United States. A member of the Committee who accepts a position as an officer or employee of the United States after being appointed to the Committee may continue to serve on the Committee for 30 days after such acceptance.
 - (2) Appointment - The Administrator shall appoint members of the Committee. Members of the Committee elect the Chair.
- i) Any individual or organization interested in small business may send membership nominations to the relevant DFO,
 - ii) The DFO reviews the nominations and tentatively selects the nominees for membership. When practicable, such selection will be completed within 30 days of the nomination,
 - iii) The DFO notifies each nominee of the nomination and tentative selection and sends each nominee a committee membership packet,
 - iv) Nominees read the membership packet, agree to its terms, and complete the necessary paperwork (Details in chapter 3, paragraph 5),
 - v) Nominees return the paperwork to the DFO. The DFO reviews the nominee's paperwork to see if any of the circumstances triggering a conflict of interest, or the appearance of a conflict of interest exists (See chapter 3, paragraph 2.c. and d.). If such circumstances exist the DFO must seek legal review from the Office of General Counsel,
 - vi) The DFO forwards the tentative selection for membership to the CMO in writing based upon the information provided by the nominee and the opinion of counsel,
 - vii) If the selection is confirmed by the Administrator, or a designee, the CMO finalizes the nominee's appointment by sending the nominee a certificate signed by the Administrator and a letter stating that the nominee will serve as a "representative" on the SBA advisory committee (See Appendix 3 for a sample);

viii) If the selection is not confirmed, the CMO will notify the DFO who will notify the nominee.

- (3) Terms of Appointment - Each member serves for a term of 3 years, with the exception of initial appointments, which are authorized to last 4 or 5 years.
- (4) Vacancies - Member vacancies shall be filled by the Administrator not later than 30 days after the date on which such vacancy occurs. Any vacancy in the office of the Chair shall be filled by the Committee at the first meeting following the date on which the vacancy occurs.
- (5) Committee membership structure - This Committee reports to the Administrator and to the Associate Administrator for Veterans Business Development. SBA structures the Committee as follows:
 - i) The Committee consists of 15 members including the Chair;
 - ii) Eight of the 15 shall be veterans who are owners of small business concerns;
 - iii) Seven of the 15 shall be representatives of veterans organizations; and
 - iv) No more than eight members of the Committee shall be of the same political party as the President.

b. Meetings

- (1) The Committee shall meet at least 3 times per year;
- (2) The Chair or the Administrator calls the meetings;
- (3) Each meeting of the full Committee shall be held at SBA Headquarters.

c. DFO

SBA's Associate Administrator for Veterans Business Development serves as the DFO of this Committee.

5. **Regional Small Business Fairness Boards**

a. Policies governing membership

- (1) Eligibility - Members must be owners, operators, or officers of small businesses. No member shall be an officer or employee of the Federal Government.
- (2) Appointment - The SBA Administrator appoints the Board members, including the Chair after receiving the recommendations of the chair and ranking minority member of the Committees on Small Business of the House of Representatives and the Senate.

- i) Any individual or organization interested in small business may send membership nominations to the relevant DFO,
- ii) The DFO reviews the nominations and tentatively selects the nominees for membership. When practicable, such selection will be completed within 30 days of the nomination,
- iii) The DD notifies each nominee of the nomination and tentative selection and sends each nominee a committee membership packet,
- iv) Nominees read the membership packet, agree to its terms, and complete the necessary paperwork (Details in chapter 3, paragraph 5),
- v) Nominees return the paperwork to the DFO. The DFO reviews the nominee's paperwork to see if any of the circumstances triggering a conflict of interest, or the appearance of a conflict of interest exists (See chapter 3, paragraph 2.c. and d.). If such circumstances exist the DFO must seek legal review from the Office of General Counsel,
- vi) The DFO forwards the tentative selection for membership to the CMO in writing based upon the information provided by the nominee and the opinion of counsel,
- vii) If the selection is confirmed by the Administrator, or a designee, the CMO finalizes the nominee's appointment by sending the nominee a certificate signed by the Administrator and a letter stating that the nominee will serve as a "representative" on the SBA advisory committee (See Appendix 3 for a sample);
- viii) If the selection is not confirmed, the CMO will notify the DFO who will notify the nominee.

- (3) Terms of appointment - Members serve for 3 years unless terminated sooner. The Chair serves for 1 year.

- (4) Vacancies - The Administrator shall fill Board vacancies including the Chair.
- (5) Board membership structure - These Boards report to the Administrator through the Small Business and Agriculture Regulatory Enforcement Ombudsman (National Ombudsman). The SBA structures the Boards as follows:
 - i) Ten Regional Small Business Fairness Boards - one in each of SBA's ten regions,
 - ii) Each regional Board is made up of five members from that region, and
 - iii) No more than three members of each Board may be from the same political party.

b. Meetings

- (1) The Boards hold meetings at least once a year;
- (2) The DFO calls the meetings and sets the date, place, and agenda after consulting with the Chairs;
- (3) The DFO makes the meeting arrangements, attends the meetings and has the authority to adjourn the meetings.

c. DFO

The Small Business and Agriculture Regulatory Enforcement Ombudsman serves as the DFO.

Appendix 1

(Paragraphs 1-3; 3-1)

GSA Sample Advisory Committee Operating Procedures

NOTE: This sample must be modified to show "SBA" and appropriate content changes.

An Example of Bylaws
And Operating Procedures From the
GSA Governmentwide Policy Board

Section I: Purpose:

The purpose of the GSA Governmentwide Policy Advisory Board (GPAB) is to provide advice and recommendations on a broad range of policy issues dealing with the acquisition, management and disposal of governmentwide assets within GSA's areas of responsibility. Such assets include motor vehicles, aircraft, real property, and personal property. The Board also provides advice regarding policies and guidance on such issues as the deployment of smart card technologies, electronic commerce, information technology, public participation, and intergovernmental coordination.

The Associate Administrator for Governmentwide Policy may form subgroups to support the Board's functions.

Section II: Authority

The Administrator of General Services has determined that the establishment of the Board is in the public interest. The GPAB is subject to the Federal Advisory Committee Act (FACA), as outlined in its charter, filed with the Congress on (enter date).

Section III: Membership Selection and Appointment

The Associate Administrator for Governmentwide Policy appoints Members of the GPAB for as long as necessary to accomplish the Board's mission. We will select members based on the specific needs of the Board keeping in mind the need to balance those viewpoints to effectively address GSA policy issues.

Membership includes the responsibility to attend GPAB meetings personally. GSA reserves the ability to replace any member who is unable to fully participate in the Board's meetings. We will

not permit alternate members to represent those individuals appointed by GSA without prior written agreement.

Section IV: Meeting Procedures

The GPAB meets twice a year. The Designated Federal Official (DFO) and the Chair will call meetings using the following considerations:

A. Agenda:

The DFO will approve the agenda for all meetings. GSA will distribute the agenda to the members prior to each meeting and will publish an outline of the agenda with the notice of the meeting in the Federal Register. You may submit items for the agenda to the DFO and/or the Chair. Non-members, including members of the public may suggest items.

B. Minutes and Records:

The Board's DFO will prepare minutes of each meeting and will distribute copies to each Board member. Minutes of open meetings will be available to the public upon request. Minutes of closed meetings will also be available to the public upon request, unless public disclosure would be harmful to the interests of the Government, industry, or others, as stated under the Freedom of Information Act (FOIA). The minutes will include a record of the persons attending (including the names of Board members, names of staff, and the names of members of the public who made written or oral presentations) and a complete and accurate description of the matters the Board discussed and conclusions it reached, and copies of all reports it received, issued or approved.

All documents, reports, or other materials prepared by, or for, the Board are official Government records and the Board must maintain them according to GSA policies and procedures.

C. Open Meetings:

Unless the Board decides in advance, all meetings of the GPAB will be open to the public. Once an open meeting has begun, the Board will not close it for any reason. All materials brought before, or presented to, the Board during an open meeting, including the minutes of the proceedings of an open meeting, will be available to the public for review or copying at the time of the scheduled meeting.

Members of the public may attend any meeting or portion of a meeting that the Board has not closed to the public and may, at the determination of the Chair, offer oral comment at such meeting. The Chair may decide in advance to exclude oral public comment during a meeting, in which case the meeting announcement in the Federal Register will note that it excludes oral comment from the public and will invite written comment as an alternative. Members of the public may submit written statements to the GPAB at any time.

D. Closed Meetings:

GPAB will close meetings in limited circumstances and in accordance with applicable law. In addition, GSA's Office of General Counsel must approve requests for closed meetings 30 days in advance of the session.

Where the DFO has determined that discussions during a Board meeting will involve matters inappropriate for public disclosure, the DFO will publish a Federal Register notice in advance of the closed meeting citing the applicable exemptions of the Government in the Sunshine Act (GISA). The notice may announce the closing of all or part of a meeting. If, during the course of an open meeting, matters inappropriate for public disclosure arise, the Chair will stop the discussion and will schedule it for a closed meeting. We will publish notices of closed meetings in the Federal Register at least 15 calendar days in advance.

Section V: Voting

When we require a decision or recommendation of the GPAB, the Chair will request a motion for a vote. Any member, including the Chair, may make a motion for a vote. We will not require a second motion after getting a proper motion to bring an issue to vote.

Section VI: Role of Board Officials

A. Chairperson:

The Chair works with the DFO to establish priorities, identify issues, determine the level and types of staff and financial support required, and serves as the focal point for the Board's membership. In addition, the Chairperson is responsible for certifying the accuracy of minutes the Board developed.

B. Designated Federal Officer:

The DFO serves as the Government's agent for all matters related to the Board's activities. By Law, the DFO must: (1) approve or call the meeting of the Board; (2) approve agendas; (3)

attend all meetings; (4) adjourn the meetings when such adjournment is in the public interest; and (5) chair meetings of the Board, when so directed by the Administrator of General Services, or his designee.

In addition, the DFO is responsible for providing adequate staff support to the Board, including the performance of the following functions:

- (1) notifying members of the time and place for each meeting;
- (2) maintaining records of all meetings, including subgroup or working group activities, as required by law;
- (3) maintaining the roll;
- (4) preparing the minutes of all meetings of the Board's deliberations, including subgroup and working group activities;
- (5) attending to official correspondence;
- (6) maintaining official GPAB records and filing all papers and submissions prepared for or by the GPAB, including those items generated by subgroups and working groups;
- (7) acting as the Board's agent to collect, validate and pay all vouchers for pre-approved expenditures; and
- (8) preparing and handling all reports, including the annual report as required by FACA.

Section VII: Expenses and Reimbursement

The Office of Governmentwide Policy will pay GPAB expenses. The DFO must approve expenditures in advance. Each organization within OGP that sponsors a specific Board activity will be responsible for providing support services outlined in Section VI, and will assure compliance with FACA and GSA's related policies and procedures.

Federal Government employees serving on the GPAB are not eligible for any form of additional compensation. The Government will pay travel and per diem for non-government members at a rate equivalent to that allowable for Federal employees.

Section VIII: Additional Information

OGP's Committee Management Secretariat is responsible for governmentwide oversight of advisory committees. The Secretariat will provide advice to other OGP organizations as needed to assure the Board's success. The contact point is Mr. Michael Neff, (202) 273-3564, or via the Internet at michael.neff@gsa.gov.

Appendix 2 (Paragraphs 2-2; 2-3)

GSA Sample FACA Charter and Federal Register Notice

NOTE: This sample must be modified to show "SBA" and appropriate content changes.

A Sample of a FACA Charter

Official Designation: Governmentwide Policy Advisory Board

Scope and Objectives: The Board will provide advice and recommendations on a broad range of policy issues dealing with the acquisition, management and disposal of governmentwide assets within GSA's areas of responsibility. Such assets include motor vehicles, aircraft, real property, and personal property.

In addition, the Board will provide advice regarding policies and guidance on such issues as the deployment of smart card technologies, electronic commerce, information technology, public participation, and intergovernmental coordination.

Duration: The Board will exist for 2 years from the date of the Charter, unless we renew it earlier.

Reporting Relationship: The Board reports to GSA's Associate Administrator for Governmentwide Policy.

Support: GSA's Office of Governmentwide Policy will support the Board's activities.

Duties: The Board will provide advice and recommendations only.

Costs: We estimate the annual operating costs associated with supporting the Board's functions to be \$75,000 per year, including all direct and indirect expenses. We estimate we will require one full-time employee to support the Board.

Meetings: We anticipate that the Board will meet at least 4 times per year.

Organization: GSA will create any subcommittees that may be necessary to fulfill the Board's mission. In addition, GSA and the Board will establish the operating procedures to support the group, consistent with the Federal Advisory Committee Act, as amended.

Date of Termination: The Board will terminate 2 years from the date of charter filing, unless we renew it sooner.

Charter Filing Date:

April 18, 1997

David J. Barram, Acting Administrator

Federal Register Notice

Establishment of the Governmentwide Policy Advisory Board

Establishment of an advisory board. We publish this notice following the provisions of the Federal Advisory Committee Act (P.L. 92-463). The Administrator of General Services has determined that the establishment of the Board is in the public interest.

Purpose of the advisory board. The Board will provide advice and recommendations on a broad range of policy issues dealing with the acquisition, management and disposal of governmentwide assets within GSA's areas of responsibility. Such assets include motor vehicles, aircraft, real property, and personal property. In addition, the Board will provide advice regarding policies and guidance on such issues as the deployment of smart card technologies, electronic commerce, information technology, public participation, and intergovernmental coordination.

Contact for information: The Office of Governmentwide Policy is the organization within GSA that is sponsoring this board. For additional information, contact Michael Neff, Committee Management Secretariat (MC), 1800 F Street, NW, Washington, DC 20405; telephone (202) 273-3564.

David J. Barram

Acting Administrator

Signed 4/18/97

Appendix 3
(Paragraph 3-4)
GSA Sample Appointment Letter

NOTE: This sample must be modified to show "SBA" and appropriate content changes.

A Sample of a Member Appointment Letter

Mr. Antonious Bloch
Seventh Seal Foundation
531 Bergmann Lane
Columbia, SC 29205

Dear Mr. Bloch:

I am delighted to invite you to serve as a representative on the Advisory Committee for Energy-Related Epidemiologic Research of the Centers for Disease Control. Your term begins immediately and ends September 30, 1993, subject to our appointment procedures and our periodic review of the Committee's functions.

Enclosed is a copy of the Charter that describes the structure and functions of this Committee.

I hope you will accept this invitation and give us the benefit of your valued counsel. You may indicate your acceptance or declination by signing and returning the enclosed Acknowledgment of Invitation and other required paperwork.

Upon learning of your acceptance, I will ask the Director of the Centers for Disease Control to provide you with further information concerning your appointment.

Sincerely,

Adgio P. Loveless, M.D.

Enclosure

**Appendix 4
(Paragraph 4-5)
GSA Sample Minutes**

NOTE: This sample must be modified to show "SBA" and appropriate content changes.

A Sample of Meeting Minutes

**NATIONAL ADVISORY COUNCIL
FOR HUMAN GENOME RESEARCH
SUMMARY OF MEETING**

January 27, 1992

The National Advisory Council for Human Genome Research held its fourth meeting at 8:30 A.M. on January 27, 1992, at the Hyatt Regency Hotel, Bethesda, Maryland. Dr. Elke Jordan, Deputy Director of the National Center for Human Genome Research (NCHGR), introduced the ad hoc consultants for this meeting, Dr. Joseph Nadeau and Dr. William Winslade.

Under the provisions of Public Law 92-463, the meeting was open to the public from 8:30 A.M. to 10:00 A.M. The Council closed the remainder of the meeting to the public for the review, discussion, and evaluation of grant applications.

Council members present:

Dr. David Botstein
 Dr. K. Danner Clouser
 Dr. Francis Collins
 Dr. Jero-me Cox
 Dr. Joe W. Gray
 Mr. Hiliary Holloway
 Dr. Kay R. Jamison
 Dr. Donald Lindberg**
 Dr. Joseph Nadeau*
 Dr. Dorothy Nelkin
 Dr. Shirley Tilghman
 Dr. William Winslade*

*Ad Hoc Consultant

** Ex Officio

Staff of the National Center for Human Genome Research attending:

Dr. Jordan,
 Dr. Watson,
 Jane Ades, Committee Management Officer
 Midge Bajefsky, Grants Technical Assistant
 Dr. David Benton Assistant to the Director for Scientific
 Data Management
 Erin Burgess, Budget Officer
 Audrey Burwell, Grants Management Specialist

For the record, we note that to avoid a conflict of interest, the following Council members left the meeting when the Council discussed applications from their respective institutions. We asked members to sign a statement to this effect.

Dr. Carol Dahl, Scientific Review Administrator,
 Office of Scientific Review
 Linda Engel, Chief, Office of Scientific Review
 Leslie Fink, Chief, office of Human Genome Communications
 Mary Glynn, Personnel officer
 Dr. Bettie Graham, Chief, Research Grants Branch
 Dr. Mark Guyer, Assistant Director for Program Coordination
 Ivan Hernandez, Grants Management Specialist

Others present for all or a portion of the meeting were :

Dr. Cheryl Corsaro, DRG
 Dr. Donna Dean, DRG
 Dr. Elise Feingold, NIH Grants Associate
 Dr. M. J. Horan, NHLBI
 Ms. M. E. Lebsack, Boulder, Colorado

DIRECTOR'S REPORT

Dr. Watson reported on the "state of genome." He began with a report from the most recent meeting of the Program Advisory Committee. He briefed the Council on three issues that PAC discussed at their recent meeting:

ANNOUNCEMENTS AND ITEMS OF INTEREST

Dr. Jordan introduced new members of the NCHGR staff. She noted that the Center was pleased to have a Personnel Office and introduced Mary Glynn and Cheryl Wild. In addition, Dr. Jordan introduced two visitors to the meeting, Winnie Stachelberg of OMB and Ms. M. E. Lebsack from Boulder Colorado.

The Board accepted the minutes from the September Council without change. In a discussion of future meeting dates, Dr. Jordan informed the Council that the appropriation for this year included a directive to the Public Health Service to reduce the funds spent on travel. The NCHGR reduced the travel budget by 42 percent and that NCHGR needs more than one-half of this budget for meetings of the Program Advisory Committee and the Advisory Council. This necessitated a severe reduction in staff travel and will also mean that there are not sufficient funds to hold an Advisory Council meeting in September. Members proposed that the September meeting be held in October, at the beginning of the next fiscal year. Council members assessed a number of options including telephone conference calls and utilizing video conferencing facilities. The Council did not make a final decision on this issue.

Dr. Jordan asked the Council members to continue to hold open all previously agreed upon dates for future Council meetings.

Dr. Jamison represented the NCHGR Advisory Council at the November meeting of the Advisory Committee to the NIH Director and provided a report of that meeting to the Advisory Council. She noted that the meeting included a discussion of indirect costs and peer review, but

that most of the discussion focused on the NIH's strategic plan. Dr. Jamison expressed disappointment with many aspects of the plan and stated that she thought it would have limited effectiveness. Dr. Jordan reported that he modified the process related to the strategic plan since the November meeting of the Advisory Committee and we should view the plan developed by NIH staff as a framework for discussion with the scientific community.

Dr. Jordan next directed the Council's attention to the information under the Program Activities Tab:

Scientific Report Card: The Council commended Dr. Benton for his work in developing this "report card," a measure of progress made on each chromosome, as of January 1992, in mapping the human genome. Dr. Jordan underscored its value in assessing the genome program and guiding it. She noted that it would be useful for a general audience, including the Congress and NCHGR staff, to measure progress. A discussion followed of strategies for disseminating the report card. Dr. Jordan stated that the Center is considering sending the scientific report card and the index marker maps to all grantees. The Council considered issuing it as a supplement to the genome Newsletter. Dr. Watson reported that he had been discussing the creation of an electronic journal with Dr. Lindberg, Director, NLM, and proposed that we could include this information in such a journal. Dr. Watson assured the Council that he was seeking broad participation of the scientific community in formulating this journal and noted that it would include human data, as well as data on mouse and other model organisms.

NCHGR PROGRAM BALANCE

Dr. Jordan commended Dr. Guyer and Joyce Rudick for setting up the NCHGR's scientific database. Dr. Guyer noted that the tables presented were one way of organizing the data in the scientific database and he solicited input from the Council on what would be useful. Dr. Botstein stated that he found the tables very useful in looking at the "big picture." Dr. Collins requested similar data for the Department of Energy, tracking dollars and research supported by chromosome. NCHGR staff agreed to see if they could get this information from the DOE.

BUDGET

Dr. Jordan reviewed the budget tables presented to the Council including the FY 1992 Appropriation. Dr. Collins expressed concern about the plateau in training. Dr. Jordan stated that this is a phenomenon in all parts of the NIH. She reported that the Center has shifted its focus to career awards. Dr. Collins noted that training programs will always lag behind research.

COUNCIL-INITIATED DISCUSSION

Dr. Cox requested information on the report of the Joint Informatics Task Force of the Program Advisory Committee. Dr. Jordan stated that the Board approved the report of this Task Force, including the disbanding of the Task Force. The Board will edit and publish the report. Dr. Benton reviewed the essence of the report and the Board agreed that it will distribute copies of the report to Council members when it is in final form.

CONFLICT OF INTEREST

Dr. Jordan read the Conflict of Interest statement and reminded the Council members that all review materials furnished to Council members are privileged information. The Chair asked members to leave during discussions of any applications in which there was a personal or professional conflict that was not readily apparent.

REVIEW OF APPLICATIONS

The Council reviewed 78 applications requesting \$14,328,402. The applications included: 15 regular research grants, 12 applications in response to requests for applications, 9 pilot projects, 1 program project, 18 ethics grants, 6 center grants, 7 conference grants, 8 small business innovative research grants, and 2 academic research enhancement awards. The Board recommended for approval a total of 50 applications requesting \$7,842,178.

ADJOURNMENT

The meeting adjourned at 5:00 P.M.

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

Elke Jordie, Ph.D.
Executive Secretary

National Advisory Council for
Human Genome Research

James Watson, Ph.D.
Chairman
National Advisory Council for

Human Genome Research

The Council will formally consider these minutes at its next meeting, and it will incorporate any corrections or notations in the minutes of that meeting.

Appendix 5 (Paragraph 4-7)

GSA Sample Meeting Announcement

NOTE: This sample must be modified to show "SBA" and appropriate content changes.

A Sample of a Federal Register Meeting Announcement

The Environmental Goals Subcommittee

The Environmental Goals Subcommittee, an ad hoc Subcommittee of the Science Advisory Board's (SAB's) Executive Committee, will conduct a public meeting by teleconference on Thursday, April 17, 1997 from 3:00 pm to 5:00 pm inclusive. Members of the public in the Washington DC area may attend the meeting in person in the Science Advisory Board's Conference Room, Room 2103-Waterside Mall, U.S. Environmental Protection Agency Headquarters Building, 401 M St. SW, Washington, DC 20460. The meeting is open to the public; however, teleconference lines are limited. If you want to participate in the call please call Dr. Jack Fowle (202) 260-8325. Seating in Room 2103 is limited and is available on a first come, first served basis. During this teleconference, the Environmental Goals Subcommittee will discuss their draft report on the Agency's draft Environmental Goals for America with Milestones for America.

For Further Information - Any member of the public wishing further information concerning the meeting or who wishes to submit oral or written comments should contact Dr. Jack Fowle, Designated Federal Official for the Environmental Goals Committee, Science Advisory Board (1400), U.S. EPA, Washington, DC 20460, phone (202)-260-8325-1 fax (202)-260-7118; or via Email at: fowle.jack@epamail.epa.gov. Requests for oral comments must be in writing to Dr. Fowle and be received no later than noon Eastern Time on Friday, April 11, 1997. You can get copies of the draft meeting agenda from Ms. Priscilla Tillery-Gadsen at (202) 260-8414 or at the above fax number or by Email to tillery.priscilla@epamail.epa.gov. For copies of the draft Environmental Goals report, please contact Mr. Peter Truitt at (202) 260-8214, by fax at (202) 260-4903 or by Email to: truitt.peter@epamail.epa.gov.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, we will limit each individual or group making an oral presentation to a total time of ten minutes. For conference call meetings, we will limit opportunities for oral comment to no more than five minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date we will provide to the committee at its meeting. You may give written comments to the relevant committee or subcommittee up until the time of the meeting.

